

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAIROBI(MILIMANI LAW COURTS)

MISC CIVI APPLI 859 OF 2007

IN THE MATTER OF AN APPLICATION BY KENYA ANTI-CORRUPTION COMMISSION FOR AN ORDER UNDER SECTION 56 OF ANTI-CORRUPTION AND ECONOMIC CRIMES ACT, NO. 3 OF 2003, TO PROHIBIT THE TRANSFER OR DISPOSAL OF OR OTHER DEALINGS (HOWSOEVER DESCRIBED) WITH THE CASH HELD AT CO-OPERATIVE BANK ACCOUNT NO. 0110092325900

BETWEEN

KENYA ANTI-CORRUPTION COMMISSION APPLICANT

AND

KOWICH PHILIP ONYANGO RESPONDENT

R U L I N G

I have read the application by originating motion dated 5th November, 2007 and supporting affidavit. I have also considered the submissions of the learned counsel appearing.

The Applicant has sought, under section 56 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003 (herein called “the Act”), an order to prohibit the withdrawal, transfer or disposal of, or other dealings with, the money held in **Account No. 0110092325900** in the name of the Respondent, KOWICH PHILIP ONYANGO, at Co-operative Bank Limited, Co-op House branch, Nairobi.

I am satisfied from the material placed before the court that the funds in the above-named account include money transferred there on or about 9th July, 2007 from **A/C No. 0240291033067** in the name of one MICHAEL AKOKO MBERO in Equity Bank in respect of which this court (Visram, J) issued a prohibitory order under the aforesaid legal provision on 26th June, 2007 in **Nairobi HC Misc. Application No. 397 of 2007**. Visram, J was satisfied that the applicant therein, Kenya Anti-Corruption Commission, had presented credible *prima facie* evidence that the funds in the said account had been acquired as a result of corrupt conduct. He was also of the view that the term “**property**” as used in section 56 (1) of the Act includes money.

I am thus similarly satisfied that there is credible *prima facie* evidence that the funds held in the subject account herein were acquired as a result of corrupt conduct. I am also persuaded that the term “**property**” as used in section 56(1) of the Act includes money.

I will thus allow the application and grant the prohibitory order sought. The order, as well as the application, shall be served upon the Respondent within seven (7) days of delivery of this ruling. Costs of the application will be reserved pending any further proceedings herein. There will be orders accordingly.

DATED AT NAIROBI THIS 7TH DAY OF NOVEMBER, 2007

H. P. G. WAWERU

J U D G E

DELIVERED THIS 8TH DAY OF NOVEMBER, 2007